The Children Act 2004: Child Protection and Social Surveillance

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Abstract

This article considers the passage of the Children Act 2004 through Parliament**.** Drawing on recent debates in social science, particularly those concerned with informationalism, governance and cultural political economy, the article examines how welfare policies can be used as a vehicle for pursuing broader political goals. In particular, the development of information, retrieval and tracking systems (IRT) raise questions concerning the rapid growth in the use of instruments of surveillance. The aims of the article are, firstly, to analyse the use of surveillance as a mode of societal governance and, secondly, to illustrate how attempts to exercise governance take place through a particular discursive construction of children and their protection, a construction which presents the Children Act as a solution to some technical problems of information-sharing and inter-agency working in the service of children's welfare. The article argues that such a discursive construction is necessary in order to delegitimise and obscure key political questions of civil liberties and human rights that are raised by the Children Act.

Keywords: surveillance, governance, IRT, social exclusion.

The Children Act 2004: Child Protection and Social Surveillance

> We have here what is potentially a very large-scale system of data recording by the state on its citizens. The system is to be set up in the name of improving the welfare of all children. The names and key personal details of all 11 million children in England are to be recorded for access by professionals from a wide variety of disciplines. The vast majority of children so recorded will not be at risk of suffering significant harm or anything approaching it. The human rights aspect of that point is a question in itself which perhaps the Minister would be kind enough to comment on. But even if we set the human rights issue aside, how can we not regard this mammoth information gathering and information sharing exercise as anything other than grossly intrusive on the privacy of families? (Earl Howe, HoL Hansard, vol. 661at col. 1154, 24th May, 2004)

Introduction

This article considers the Children Act 2004 in the light of recent social science debates concerned with informationalism, governance, and cultural political economy. It points to the ways in which these debates help to situate a significant piece of welfare policy within broader social developments. The article explores how we might consider this legislation without accepting at face value political rhetoric from official government sources, how we might move beyond the remit and conceptual boundaries set by such discourse. This is important because policy measures are never simply about technical issues of this or that situation and constituency; in this case, child protection and children and their families. Historical accounts of welfare development highlight the role of welfare in nation-building, economic development, managing populations and structuring social divisions (Ashford, 1986; Lewis, 1998; O'Brien and Penna, 1998). Contemporary accounts draw attention to the key role played by welfare and welfare policies in the governance and regulation of modern societies (c.f., Clarke, 2004; Fitzpatrick, 2001).

The article begins from the premise that welfare programmes are intrinsically embedded in political projects, projects that are concerned with managing societal

change and that are rooted in normative perceptions of what constitutes desirable social development. Welfare policies, in this sense, are technologies of governance: they are vehicles through which are steered visions of the 'good society'. Accordingly, welfare initiatives are a site of constant struggle over whose visions and interests are to be realised by such initiatives. During periods of rapid economic, political and cultural change, welfare programmes become embroiled in a range of competing agendas. What follows is an attempt to disentangle some of the agendas and interests surrounding the Children Act 2004 and to consider their possible implications.

The quotation at the start of this article refers to key issues that were raised during the passage of the Act. The Children Act is, in fact, an extraordinary piece of legislation, containing two important sections that have significant implications for civil liberties. Section 12 facilitates the establishment of electronic data-bases to track the progress of all children in England and Wales. Section 10(2) of the Act specifies five areas that are subject to surveillance in the interests of the child's welfare, including (d), *the contribution made by the child to society*. This astonishing specification is offered in the context of conferring significant power on professionals that come into contact with a child, through the adoption of a new legal category of 'concern' as the criterion for information-gathering and possible intervention. The far-reaching sweep of these proposals, allied to the electronic tracking system, was the reason for the alarm that was expressed as the original Bill was examined in its passage through Parliament, alarm that continues subsequent to the Children Act receiving Royal Assent on the 15th November 2004. However, the Act and its implications have been virtually unnoticed in the press.

The tremendous increase in the use of electronic databases in the past decade has increased debate over issues of privacy, particularly 'informational privacy', civil liberties, and human rights (see HC Home Affairs Committee, 2004; Information Commissioner, 2005). These issues, in turn, flag up wider questions of the relationship between the individual and the state, of how to safeguard the privacy and civil liberties of individuals whilst increasing surveillance and data collation in the interests of various types of protection (national security, crime control, child protection). The increasing use of computerised databases has been primarily for the purposes of gathering, storing and processing intelligence to be used by the police. This is part of a development of policing based upon new information technologies that 'has developed in the UK largely unnoticed' (Donson, 1998: 181). This development has provoked much concern over the social impact of new intelligence-gathering techniques, particularly in relation to privacy, as well as with the political consequences in terms of democratic control and accountability (see Field and Pelser, 1998).

The first section of the article outlines the government's rationale for, and the objectives of, the Children Act in the context of a rapid growth in electronic databases for the purposes of surveillance. The second section examines the historical development of surveillance as a technology of governance, drawing on Foucauldian perspectives on the role of welfare in social governance and suggesting that electronic tracking systems can be understood as a continuation and development of technologies of governance that characterise modern societies. Section three draws on the work of Cameron and Palan (2004) and Sum (2004) to examine the discourse

of 'social exclusion' in the construction of a hegemonic political ground necessary to the legitimation of extensive and intrusive electronic surveillance at a time of rapid social, economic and political change. Those involved in the political management of such change develop governance strategies to deal with new situations, strategies that are subject to contestation. These strategies are framed within discourses that reconstitute the object of governance – in this case, children and their families – and establish a shared set of meanings to facilitate action by the various agents involved in the implementation of the chosen strategy. This is achieved by 'technologising' the politically contested issue, by translating the issue into technical and 'common sense' understandings that serve to depoliticise any particular project (Sum, 2004).

In the case of the Children Act 2004, key provisions of the Act can be understood as forming part of a strategic political project of citizen surveillance. The Act's discursive presentation as a solution to technical problems of information-sharing and inter-agency working in the service of children's welfare is necessary in order to delegitimise and obscure political questions concerned with civil liberties and human rights. Such a presentation also serves to normalise the dominant (technocratic) discourse, in order to secure the institutional consolidation of the overall project through the enactment of a policy programme. This does not mean that the government does not care about children, but rather that children and families become inserted into a project that is much wider than child protection.

Reconfiguring Children's Services: electronic infrastructures and surveillance

In order for this insertion into a wider project to occur, the concept of 'child protection' must be redefined. It is therefore significant that the Children Act follows

Lord Laming's inquiry into the death of Victoria Climbié. The Green Paper that preceded the Act (DfES, 2003), published alongside the formal government response to the Laming inquiry (DfES, 2003a), deals with several policy areas and generates numerous initiatives. The proposed reconfiguration of children's services creates a complex structure that extends and modifies existing arrangements. Significantly, the stated aims of these changes stretch beyond child protection as it is commonly understood (the prevention of physical, sexual or emotional abuse). They now encompass the prevention of factors that impact adversely on children considered to be 'socially excluded'. Such factors include ill-health, educational underachievement, truancy, poor living conditions, and engaging in criminal or anti-social activity.

As a consequence of this extension of harms, child protection has come to mean the protection of children from failing to achieve their 'potential'. This is a vague notion that leaves open the question of what might constitute potential and who the best judge of such potential will be. The stated aims of the prevention of, and intervention in, the wide range of conditions that can be considered detrimental to a child are couched in terms of support for families and carers alongside the early identification of, and intervention into, specific problems. In order to make these proposals effective, an integrated information-sharing system is considered necessary. Such a system aims to ensure that agencies coming into contact with children can maintain full records. There is, of course, nothing new or controversial in the exhortation to multi-agency working and improvements in communication and information exchange between and within agencies. These factors are routinely noted in reports following an investigation into the death of a child.

However, what has caused significant controversy in this case is the development of an electronic infrastructure for multi-agency working, an electronic system of information collecting and sharing which proposes the monitoring and surveillance of all children. Section 12 of the Act facilitates the creation of individual electronic files on around eleven million children. The mechanism for this is an information, referral and tracking (IRT) scheme which will be shared between agencies. 'Tracking' refers to a child's contact with any education, health, welfare and law-enforcement agency. Margaret Hodge, as Minister of State for Children, stated that proposals for local information sharing systems were designed to enable practitioners to share early information about children and young people 'where appropriate'. She went on to explain that implementation of the proposed electronic system would require the development of a basic database on 'all children in an area together with a unique identifying number that would apply from birth or if a child moves areas still has the same number' (sic) (Margaret Hodge, HoL. Hansard, 15th January 2004, vol. 656 at col. 897W).

IRT had already been mooted for some time across different government departments. For example, we find it mentioned in a Home Office White Paper (2003, para 2.5). This was published a few months before the DfES Green Paper (DfES, 2003) and contained numerous references to what was then a forthcoming Green Paper from another Department. The Home Office claimed that:

> The development of IRT will enable all agencies to share information about young people at risk. It will mean, for example, that when a young person who is committing anti-social behaviour comes to the attention of the police, this information will be shared with schools, social services, the youth service and other agencies who may be working with them. We expect all these agencies to include action to tackle the offending behaviour as a key part of their work with that young person' (Home Office, 2003: para 2.7).

When a universal IRT system was proposed in the original Bill, its application to all children was subject to serious criticisms. However, its universality was maintained in the Act (DfES, 2005) even though many children and their parents were already subject to considerable surveillance. Yar (2003) points out that those children that are considered vulnerable are already the focus of a protection-oriented regime ranging from private surveillance by parents through to the development of extensive inter-agency databases aimed at providing comprehensive socio-biographical details of individual children. Moreover, those children deemed socially problematic are subjected to surveillance through a range of policing initiatives. These include parenting orders, curfews, anti-social behaviour orders and technological mechanisms such as electronic tags. This surveillance and its widening remit has been the subject of much analysis. For example, Goldson (2002) and Goldson and Jamieson (2002) point to recent developments whereby 'inadequate' parenting is criminalised through provisions in the 1998 Crime and Disorder Act that make possible the processing of parents through the criminal justice system and which have resulted in a 'significant expansion of state intervention into family life' (Goldson and Jamieson, 2002: 82). Elsewhere, Munro (2004: 180) has criticised the proposed IRT system as an effort at the 'state regulation of parenting' that was unlikely to achieve its official aims because of the 'confusion and contradictions' characterising the legislative framework of the Children Act. In part, this confusion arises because of the dual logics - protection of society from the child and protection of the child from society – that are interconnected in the Children Act. These operate through the proposed universal and comprehensive information system, operating across the range of social and institutional sites through which children pass and where diverse observations relating to a child and his or her life can be 'flagged' as a concern. Interestingly, there is no

connection in the Act between the flagging of concern and a duty to assess for, or provide, services (see Family Policy Alliance, 2004).

The extensive surveillance apparatus envisaged, the numerous personnel that are potentially involved in recording information, and the scope of their remit, has raised a number of issues with respect to civil liberties, human rights and a child's or parent's right to confidentiality. Given the sweeping set of conditions that are subject to possible concern - conditions which cover just about every facet, behaviour, attitude and orientation of a child and his or her family - this is a highly significant development. The IRT proposal raises questions over possible violation of the Data Protection Act 1998 and possible breaches of article 8 of the 1998 Human Rights Act, the right to respect for private and family life. These issues were raised (and continue to be raised, subsequent to the passage of the Act) by the parliamentary Joint Committee On Human Rights (2004: paras 103-116), the Information Commissioner, the Delegated Powers and Regulatory Reform Select Committee, and the Home Affairs Select Committee (see Information Commissioner, 2005: paras 10-20 and 30-33). The government's neglect of these issues is also evident in the fact that the Children's Commissioner that is also established by the Children Act must have regard to the relevant provisions of the United Nations Convention on the Rights of the Child when considering what might be in the interests of children, but there is no specific duty in relation to the *rights* of the child (see the highly critical report on this subject published by the Children's Rights Alliance for England, 2004).

These questions of individual rights suggest that we need to look beyond the surveillance of children and their carers, for they flag up a broader concern over

encroachments on civil liberties more generally. It has been suggested that a widespread surveillance system such as IRT could turn into a 'social tagging' system that would label rather than protect children and would prefigure a population-wide surveillance and tracking system (Burstows, 2003; Hill, 2003). The government aims to 'cut through legal and technical barriers to information integration'. However, in so doing it dismantles (at worst) or renders extremely difficult (at best) existing citizen protection against intrusion into civil rights and liberties. As Lyon (1988: 89-90) has observed:

> …new technologies oblige members of the advanced societies radically to rethink how they should be treated by law. IT renders old approaches obsolete. Electronic storage of data and text which permits alteration after storage presents almost insurmountable difficulties for those seeking democratic control.

What is particularly important is the convergence of computers with telecommunications that is rendered possible through micro-electronics. There are controversial implications for the use of new surveillance and investigative technologies that emerge from this convergence (Castells, 2001: Lyon, 1988). IRT systems are designed to allow practitioners from different agencies, locales and institutions to access individual records. In order for this to happen, computers much be networked. As soon as such 'cyber' spaces are constituted, the liberty and privacy of individuals becomes significantly more difficult to safeguard. Whilst IRT is proposed as a strategy aimed at liberating children from abuse, deprivation and insecurity, it may also function as a mechanism of extensive, intrusive and potentially politically repressive social control. It could constitute another moment in the development of multiple '…agencies of surveillance and processing of information that record our behaviour for ever, as databases surround us throughout our lives – soon starting with our DNA and personal features (our retina, our thumbprint as digitalized marks)' (Castells, 2001: 180). Indeed, closed circuit television (CCTV)

and biometric scanning devices for smart cards, fingerprinting, iris scans, hand geometry scans, voice recognition, DNA testing and digitised facial recognition are already established surveillance techniques. Moreover, as genetic technologies advance the possibilities for surveillance increase. This can be seen in The Human Tissue Act 2004, which allows an individual's DNA to be analysed for research purposes and for the prevention or detection of crime without their permission.

Such developments entail potentially profound and far-reaching consequences for the ways in which children and young people are subjected to social supervision and control, and for broader questions of rights and liberties in a society in which surveillance is rapidly becoming the technology of choice in configuring new modes of social governance. For example, 'e-Government' has spawned a host of electronic identification, monitoring and tracking initiatives, known generically as National Projects. Already operational is a project that uses new technology to identify 'vulnerable' children *before* they get to the point of offending. The Reducing Youth Offending Generic Solution National Project (RYOGENS) is one of approximately 23 projects funded by the Office of the Deputy Prime Minister as a key element of the Local e-Government programme to 'e-enable' all local authority services by 2005. RYOGENS is a web-based system that different agencies such as the police, health, social services and education can share in order to record concerns about children 'at risk' of getting involved in crime, with the aim of making early interventions. This proliferation of databases was the subject of the Information Commissioner's (2005: para 12) warning of 'function creep, where the use of data bases widen over time from that originally envisaged'. Drawing attention to proposals for a national Identity Card scheme, National Identity Register and Citizen Information Project (population

register), the Information Commissioner (2005: para 13) expressed serious concerns, not least of the danger of 'sleep walking into a surveillance society'.

In such a context, should we understand the IRT system proposed in the Children Act as another technology for the wholesale electronic tracking of populations by state agencies or as a rational response to both perceived failure in the child protection system and to 'parenting deficits'? One way of addressing this question is to examine the wider development of surveillance and its deployment within contemporary governance.

Technologies of/and governance

Contemporary societies are saturated by the public and private surveillance of citizens: '…the mundane reality is that "everyday" information becomes the basis of much '"surveillance"' (Lyon, 1988: 96). However, Lyon points out that this is by no means a new phenomenon. The collection and storage of personal data has been a characteristic of the development of modern Western nation states and their societies, particularly since the nineteenth century and the development of statistics and 'blue book' science. The then-prevailing means of communication (print) were largely monopolised by government and by newly-constituted experts such as psychiatrists, whose knowledge became conjoined to particular institutions. Foucault (1979) traced this process through an analysis of the role of this knowledge-power convergence in the establishment of discipline in the operating frameworks of modern institutions (in prisons, especially, but also in factories, schools and workhouses). These institutions, Foucault argued, are characterised by 'regimes of (disciplinary) power' which subject their charges to surveillance, training, subordination and normalisation. The

continuity and multiple applicability of these techniques mark out 'discipline' as a unique type of power. The techniques for training and normalising inmates, with some variation according to context, emerged during the early nineteenth century and were structured around the principle that populations could be ordered through surveillance. Such techniques became embedded across the entire spectrum of public and private institutions. In clinics, hospitals, schools, factories, asylums, orphanages and workhouses, the principles of monitoring, routinisation, ranking, and recording instilled a regime of behaviours, compliances, regulations and moral-political codes into institutional structures and practices. Foucault saw these normalising procedures as elements in the development of discipline as a means of regulating and organising social life, where power becomes embedded in the everyday routines of institutions, agencies and actors (see O'Brien and Penna, 1998).

Discipline marks a mode of power which is general (the province of a very large number of officially sanctioned social authorities) and continuous (in that there is, in every institution, a rational calculation of power and how it can be most efficiently applied). On the basis of mundane and routine actions, attitudes, and intellectual and emotional variations there has been built an extensive and increasingly penetrating system of monitoring and surveillance, socialisation and normalisation. The point made by Foucault that is of most relevance to this discussion is that this mode of power arises within the epistemic shift that forms part of the transition to modern societies, where the development of social science and its relationship to political and social administration has seen an increasing movement since the nineteenth century towards tracking and monitoring populations. This tracking and monitoring goes from the moment of birth to beyond the moment of death. Through its mechanisms, the

populations of modern societies are recorded, coded, categorised, classified and chronicled. Each individual is subjected to an evaluative regime in which every facet of 'normal' life is used by someone, somewhere, in order to bestow rights, assess needs and entitlements, and judge educational, developmental and moral progress. A political-institutional network - from schools and workplaces through to social, psychiatric and police services - is arranged around surveillance of the beliefs, actions and capabilities of the entire population. The systems of power described by Foucault are instituted not by openly coercive or repressive state agencies but by a very wide miscellany of civil institutions. They are systems of power (or 'micro-capillaries' of power) that are inculcated into the behaviours, habits and practices of an entire society of people, with the consequence that the rules, codes and procedures of regulation and control are experienced as normal features of institutional and everyday life (O'Brien and Penna, 1998).

Accounts of welfare that are influenced by this perspective have examined the ways in which different aspects of welfare delivery have been utilised in order to advance disciplinary modes of social control (Donzelot, 1980; Squires, 1990; Cohen, 1985). The development, since the late nineteenth century, of social security (income maintenance) entitlements and social work organisations has been interpreted as the extension of disciplinary power that was targeted originally at the 'social question', the interconnected problems of poverty, crime, ill-health and social disorder arising from the transition from feudalism to industrialism. Since this time, 'the family' has been routinely located at the centre of political and moral panics (see Gittins, 1993; Pearson, 1984). Social work then became precisely that which it indicates – work on the social (see O'Brien, 2004). The development of casework in the early twentieth

century has been interpreted as the development of one of many mechanisms of surveillance and intervention into the organisation of social life. Casework intervenes in the lives of individuals and families, aiming at preventative, transformative work by focussing on the character and behaviour of individuals. In so doing, it forms part of an apparatus of welfare and state intervention that structures social relations, social order, and social reproduction (see Donzelot, 1980, and Squires, 1990, for studies of welfare from this perspective).

The development and extension of new technologies - and, during the second world war, of administrative apparatuses - and their subsequent post-war expansion, has further extended surveillance so that it reaches into all aspects of individual and social life: '…traces of behaviour; credit card activity, traffic tickets, telephone Acts, loan applications, welfare files…' (Poster cited in Lyon, 1988: 99) and myriad other activities become subject to it. In this way, surveillance extends to all individuals in their everyday, routine activities. IRT systems, in this context, can be understood as one further aspect of surveillance entailed in modern welfare and other institutions, where the intrusion of state and state-sanctioned agencies into the private and familiar reflects a capacity for continually monitoring behaviour.

Governance and legitimating discourses of social exclusion

The account above is useful for pointing to the intrinsic character of surveillance in modern governance. Welfare is a component of governance and is inextricably tied to surveillance, the latter extending more and more across the entire population. Situating IRT within such an analytical framework suggests that electronic surveillance is a continuation of techniques of governance that characterise modern

social life. Foucauldian analyses are not, however, without criticism, and two such criticisms are of particular importance. One of them concerns the absence of a subject in Foucauldian accounts and, allied to this, attributing to concepts of governance and 'governmentality' a coherence that is in fact lacking. Theoretically, it is possible to envisage a 'totally administered' society, full of 'Stepford Wives' citizens, robotically submitting to an all-encompassing surveillance and control of social life. Empirically, there is insufficient attention paid to the different and often contradictory agenda both between and within state agencies, to the compromises and shifting alliances that are made, and to resistance to state policies from public employees and private citizens. Processes of change in relation to welfare and criminal justice policy, and the governance of the public sphere more generally, are on-going and dynamic. The changes proposed are contested, both in terms of proposed changes *per se* and in terms of the best means to achieve desired objectives. As a result, any initiative, any overall programme of reform, will involve different social groups with different interests, agenda and ideological persuasions. For these reasons, any form of governance strategy has ceaselessly to be accomplished: in Gramscian terms, hegemony is never fully realised, but must be secured. An important dimension in the securing of hegemony, or securing sufficient consent for the operation of governance, is the discursive framing of issues that is aimed at legitimating strategies of governance (Clarke and Newman, 1997; Cameron and Palan, 2004; Jessop, 2004; Peet, 2000).

In recent years, 'social exclusion' has provided an important trope around which are pegged justifications for various reforms. Although the official justification for the Children Act focuses on a desire to respond to the Laming Report, the opportunity to

harness several 'social problems' to its remit was evident before the publication of the Green Paper. As a result, the reams of documentation issuing from the DfES on the eventual publication of the Green Paper made much reference to the protection of children 'at risk' from the various ills attributed to 'social exclusion'. Also, during the passage of the Act the retention of the clause relating to a child's 'contribution to society' was vigorously defended against numerous criticisms:

> We do not agree that the databases should be restricted only to the purpose of safeguarding and promoting the welfare of children. They are not primarily a child protection measure. They aim to enable information sharing so that a preventive approach can be taken, through early identification of the needs of children, in order to promote their well-being. There is an implied duty in Clauses 6 and 7 for practitioners working across the range of children's services to share information to fulfill their duties. That should include services in relation to education and training, social and economic well-being and the child's contribution to society: that is the full range of positive outcomes for children as reflected in the objectives set out in Clause 6(2) (Baroness Ashton of Upholland, HoL Hansard, 24th May 2004, vol. 661 at col. 1094).

Cameron and Palan (2004: 130) suggest that, in contemporary politics, the notion of social exclusion serves an important discursive function in securing a hegemonic political ground. Their argument proposes that before any rational discussion, debate, understanding or course of action on any issue can take place, the issue must be first of all ' framed'. That is, it must be constructed through narrative:

> …the participants in any debate must first generate, implicitly or explicitly, an area of broad agreement over how and where lines of differentiation are to be drawn…to make themselves heard they must establish discursively an area of common understanding (Cameron and Palan, 2004: 51-2).

Any particular debate is located in a broader discourse that 'frames' the specific discourse within a set of common terms of reference. Framing serves as a narrative device that 'persuades the reader and/or participant of the importance of political and social messages and requires them to respond in some way' (ibid: 52). In this way, discourse 'constructs a ground or space on which to act politically… a mythical but necessary foundation without which human action cannot take place' (ibid: 66). Cameron and Palan develop an account of the way in which 'common sense'

understandings are achieved and how they serve to construct 'a grid of meaning' to form the ground of contemporary politics. In the formation of this grid, 'social exclusion' is connected to a narrative of globalisation and together they play a key role in forming the ground for contemporary state politics. In posing questions of how it becomes possible to move from a (post-war) state discourse of poverty to a contemporary discourse of social exclusion, their work is instructive in tackling both external (political-economic insertion into processes of globalisation) and internal (domestic policy) orientations of state politics.

Their argument is that over the past two decades we have seen a transformation of the state. This has been from the post-war, welfare–orientated, Keynesian, nation-state to a 'market' or 'competition' state that is situated within a highly competitive, globalised economic environment. In this environment, citizens contribute to the common good not by collectively pooling resources against common risks but by individually producing and consuming economic goods and services. Social exclusion:

> Refers less to exclusion as a condition than …as exclusion from the large "body" of human capital available to the competition state. At base is the notion of global competitiveness which needs to be internalised into the social, economic and political fabric of the state (Cameron and Palan, 2004: 134).

Inclusion, then, refers to inclusion in a competitive economy. Economic globalisation has involved various forms of economic transnationalism and processes of deregulation that reduce the role of the nation state in the governance of economic processes. Alongside this, the operation of the new economic order and the supranational political institutions that govern it produce central and marginal spaces. These are areas that are central to the global economy and areas that have been stripped of jobs and facilities, places that are politically and economically powerful

and places that are powerless (Sassen, 1998, 2000). In short, much of what is considered as 'social exclusion' is constantly being produced by the operations of the contemporary political economy (Penna, 2004).

Cameron and Palan argue that a consequence of this process is a dislocation between economy, society and state. The 'socially excluded' (in this discourse, 'social exclusion' refers to the poor rather than to the wealthy, cosmopolitan elite that is increasingly barricaded in private estates, travelling by private 'plane and frequenting heavily-guarded, exclusive shopping malls, as detailed by Davies (1990)) can be seen as outside of 'society' because the fundamental meaning of the 'social' and its normative dimension, according to Cameron and Palan (2004: 19), is undergoing a significant change. 'Normality' is now defined in terms of proximity to ideals of global economic participation and consumption. Drawing on Bauman, they argue that the socially excluded have been expelled 'from the universe of moral obligation' (ibid: 145) and 'consigned to a particular social category – social exclusion – and processes of rehabilitation…which are themselves confined to particular spatial scales – the local, the neighbourhood, the community' (ibid: 146). This 'rehabilitation' takes place through endless requirements placed upon poor people coming into contact with official agencies. These requirements focus predominantly on the rectification of personal deficits and signify, both symbolically and operationally, '…a shift in the philosophy of welfare provision away from the protection of people who are either temporarily or permanently displaced by the wage economy, to a new regime where retraining or participation in the job market are conditions for social assistance' (Brodie, cited in Cameron and Palan, 2000: 148).

However, it is not only in respect of social assistance that such programmes operate. Parental responsibility orders, curfews, and other similar initiatives issuing from central government similarly signify such a regime. These are equally embedded within a 'moral economy', encoding and operationalising moral judgements and categorisations. In treating social exclusion as a deficit in the skills, aptitudes, characters and motivations of the poor, neither the political nor economic system is open to scrutiny. The narrative of social exclusion closes off any scrutiny, naturalising and normalising emerging political-economic arrangements and, thus, providing for their legitimation.

The Children Act utilises 'social exclusion' in this fashion, recasting the project of surveillance as early intervention into situations of 'concern'. However, a situation of concern raised by the passage of the Act itself was the lack of detail that effectively provided the government with unprecedented power in relation to children and families, in the form of a 'blank cheque' into which could be written various and further powers:

> Our debates thus far on Clause 8 — indeed on the whole issue of information sharing — have demonstrated that there is considerable disquiet on all sides of the Committee about the skeletal nature of the provision on the face of the Bill (Earl of Northesk, HoL Hansard, 24th May 2004, vol. 661 at col. 1150).

The flagging up of 'concerns' in relation to a child raised a set of difficult questions:

> Is a policeman obliged to register a concern about a child if the child's father has just been to prison? Perhaps. Should there be a flag of concern if the child's father went to prison 20 years ago and has not since re-offended? Perhaps not. But how is anyone supposed to know where the dividing line is? In any system of this kind, much will depend—or ought to depend—on the professional judgment of the doctor, teacher, social worker, police officer or whoever it happens to be, but I hope that the Minister will agree that the regulations need to spell out clearly where the boundaries should lie regarding making substantive information about a child accessible by others without prior reference. I am not talking about what is on the database as much as what the flags denote. The more information that is loaded onto a database, the more there is a risk of information overload (Earl Howe, HoL Hansard, 24th May 2004, vol. 661 at col. 1103).

Another speaker continued by referring to the RYOGENS scheme, which 'identifies, assesses and refers vulnerable children capturing concerns below statutory thresholds which would not otherwise be recorded', drawing attention to its implementation guide. This defines what the 'concerns' which should trigger an entry in the database are. These concerns are, indeed, worth drawing attention to. They include the following: 'denies part in/does not believe/commits anti-social behaviour', 'non-constructive spare time/easily bored', 'negative home influence on education', 'criminal area of residence'. The speaker pointed out that:

> All of these and many others constitute legitimate reasons for entering a flag within the system. Moreover, it is explicitly anticipated that the "opinions" of practitioners will form the basis of flags within the database. At paragraph 3.5.3 of the information sharing guidance toolkit, "personal data" is defined as, 'facts or opinions relating to a living individual that can be identified by the data'. I readily recognise that the judgments that practitioners have to make on individual cases are exceedingly complex and difficult. (Earl of Northesk, HoL Hansard, 24th May 2004, vol. 661 at col. 1106).

After raising a number of other queries this speaker asked:

> That being so, how legal are those pilots? What precisely are the business rules and risk scoring logic that drive them? What protocols exist within the pilots for full Data Protection Act compliance? (Earl of Northesk, HoL Hansard, 24th May 2004, vol. 661 at col. 1157).

The lack of detail and adequate response to these and other questions meant that nearly 600 amendments were tabled in the House of Lords. The Bill raised queries galore, including technical problems surrounding the interoperability of databases, data security, incorrect entry of data, data overload, the 'steamrollering' of professional ethics and the situated nature of professional judgment. The government addressed some of these concerns, proposing various criteria and a Common Assessment Framework (CAF) (DfES, 2005; Margaret Hodge, HoC Hansard, col. 803W, 1st February, 2005). However, Local Authorities are currently expected to:

> Discuss your assessment of available data, and the views of children and their families, on how well *all children and young people* in your area, and specific groups of more vulnerable children and young people, are doing against the five outcomes for children and young people (DfES, 2004. Italics added).

The government successfully evaded significantly amending many contentious sections of the Act. Moreover, the CAF will not be enough to allay concerns, given that it is impossible for human beings to operate without the tacit judgments and interpretations that mediate courses of action. Several problematic areas remain, with the detail to be fleshed-out in forthcoming Regulations and Guidance. Such problems have led the organization *Action On Rights for Children* to plan a legal challenge to section 12. The problems testify to the contentious political ground the government is traversing with this Act. The only way to defuse its political import is to reduce the problems to technocratic issues of assessment criteria and audit trails, and to stress the necessity of safeguarding the nation's children from the various risks attending the actual or potential condition of 'social exclusion'. In this way, the discourse of exclusion sets the parameters and frame of desirable action, paving the way for 'technical' interventions that require an extensive electronic infrastructure of social surveillance.

Conclusion

Framing the problem of child protection as, simultaneously, a problem of social exclusion legitimates the introduction of the wide-ranging information system that IRT represents. Also, introducing various IRT systems piecemeal is one way of overcoming the resistance that has met Home Office proposals for a national identification system. Once all children are on databases and reach adult status, having been always subjects of surveillance with an individual ID number, a national

ID card becomes simply an extension of an already existing practice. In this way, IRT extends beyond state regulation of parenting to form part of a much wider project of social surveillance. Fitzpatrick (2001: 192), discussing the increasing criminalisation of social problems, comments that 'social control, social surveillance and social welfare are becoming increasingly harder to distinguish'. In part this is because social welfare and criminal justice form part of the same project of surveillance and its administrative and political logics run through policy initiatives. The increase in electronic data bases for the purposes of gathering, storing and processing intelligence to be used by law enforcement and security personnel preceded the Green Paper *Every Child Matters*, and the extension of electronic tracking and surveillance systems to children and their families is seen by the Home Office as a logical extension of other tracking systems. These developments give grounds for concern over the social and political impact of new intelligence gathering techniques, especially with respect to civil liberties and human rights. It is such concerns that have led government to depoliticise politically contested issues by translating them into 'common sense' frames of reference. Nonetheless, in the case of the Children Act 2004, key provisions can be understood as forming part of a strategic political project of citizen surveillance. Moreover, their presentation as a solution to technical problems of information-sharing and inter-agency working in the service of children's welfare is necessary to secure the institutionalization of the project.

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